

Ordinance No. \_\_\_\_

ORDINANCE:

To grant Text Amendment  
Application No. TXT2014-  
00236, Mayor and Council of  
Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2014-00236 for the purpose of amending Chapter 25 of the Rockville City Code, "Zoning," so as to revise Chapter 25 for the purpose of making certain clarifying and technical revisions; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meeting of November 13, 2013, and recommended that the text amendment be approved, but asked the Mayor and Council to further consider the provisions for parking in connection with fast-food restaurants and parking for self-storage warehouses; and

WHEREAS, pursuant to the Land Use Article of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on December 9, 2013, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on December 9, 2013, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, upon consideration of the testimony and further discussion the Mayor and Council gave notice that a second hearing on said application would be held by the Mayor and Council in the Council in the Council Chambers at Rockville City Hall on March 24, 2014, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, the Mayor and Council having considered the text amendment application and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

SECTION 1. That Text Amendment Application No. TXT2014-00236, be, and the same is hereby granted, by amending Chapter 25, “Zoning”, as follows:

Amend Article 1, “General Information”, as follows:

\* \* \*

#### **25.01.03 – Authority**

The provisions of this Chapter are adopted in accordance with the zoning and planning authority enumerated in the City Charter, the Land Use Article [66B] of the Annotated Code of Maryland, as amended, and other applicable State enabling authority.

\* \* \*

#### **25.01.06 – Compliance**

A person cannot use, [or] develop or alter any land or structure within the City without complying with the applicable provisions of this Chapter.

Amend Article 3, “Definitions; Terms of Measurement and Calculations”, as follows:

#### **25.03.02 – Word and Terms Defined**

\* \* \*

*Hotel (including motel)* - Any building containing rooms or suites of rooms designed and intended for the temporary lodging of guests, and which are available to the general public for compensation. A hotel may also include related accessory uses such as meeting rooms and restaurants.

\* \* \*

*Lot* - A parcel or quantity of land. Lots include the following:

\* \* \*

4. *Lot, Ownership* - Land designated as a separate and distinct parcel of land for purposes of ownership or financing on a legally recorded ownership plat filed among the land records of the County. Any land so designated shall not constitute a record lot or plan of subdivision.

\* \* \*

6. *Lot, Qualifying Undersized* - A lot with a net area of less than 6,000 square feet but at least 5,000 square feet, or with a width at the front building line of less than 60 feet but at least 50 feet shown on a plat or deed recorded prior to October 1, 1957.

\* \* \*

*Qualifying Undersized Lot* – See “Lot, Qualifying Undersized.”

\* \* \*

*Structure* - A combination or assembly of materials designed for [which requires] permanent location on the ground and intended for occupancy or use, [or attachment to something having permanent location on the ground] but not including appurtenances attached to the combination or assembly of materials. This definition includes, but is not limited to, items such as buildings, arenas, tents intended for public assembly, towers for electric power transmission towers and antennae for telecommunications, bridges, water tanks, fences, signs, and utility poles.

\* \* \*

*Twinbrook Metro Performance District* - That area delineated as the Twinbrook Metro Performance District on the Zoning Map.

\* \* \*

*Use, Principal* – The principal purpose for which a lot or the main building on the lot is designed, arranged, or intended and for which it may be used, occupied, or maintained as a permitted, conditional, or special exception use.

Amend Article 5, “Application and Notification, Generally”, as follows:

\* \* \*

## **25.05.07 – Amendments to Approved Development**

\* \* \*

*b. Minor Amendments to Approved Development*

1. Any application for an amendment which does not significantly deviate from the terms and conditions of the original approval and would effectively carry out the intent of the Approving Authority's original approval may be considered and acted upon by the Chief of Planning under the provisions for a Level 1 site plan as set forth in Sec. 25.07.04.
  - (a) Such application may be approved if it results in a minimal effect on the overall design, layout, quality, or intent of the plan and is limited to minor adjustments to site engineering, parking or loading areas, landscaping, sidewalks, recreational facilities, recreational areas, public use space, or open area in a manner that does not alter basic elements of the site plan. Landscaping maintenance does not require an amendment application under this section. The addition or relocation of minor appurtenances such as, but not limited to, bicycle racks, seating benches, and pergolas does not require an amendment application, but must not alter the basic elements of the site plan nor cause a safety hazard.

\* \* \*

*c. Major Amendments to Approved Development*

1. Where the Chief of Planning determines that a requested change is too significant to be a minor change but is not so substantial as to require an entirely new application for approval, the requested change must be reviewed and approved by the original Approving Authority as an amendment to the original development approval. Major amendments may include:
  - (a) an increase in the height of any building,
  - (b) an increase in the floor area of any non-residential portion of a building,
  - (c) an increase in the number of dwelling units, or

\* \* \*

Amend Article 7, "Procedures for Site Plans and Project Plans, Special Exceptions and Other Permits", as follows:

\* \* \*

**25.07.02 – Application Procedure for Site Plans, Project Plans, and Special Exceptions**

\* \* \*

- a. *Application* – Applications for site plans and Project Plans must be submitted in accordance with the provisions of Section 25.05.02 and the following pre-application requirements:

\* \* \*

#### 4. *Historic Review* –

- (a) If a Natural Resources Inventory (NRI) is required in conjunction with an application that proposes demolition of a building or structure outside a Historic District, the building or structure will be evaluated by the Chief of Planning using the Historic District Criteria adopted by the Historic District Commission for potential eligibility for historic designation prior to acceptance of the application for site plan, Project Plan, or special exception approval.
- (b) If through the NRI the Chief of Planning identifies any site, building, or structure as having potential historic significance under the Historic District Criteria adopted by the Historic District Commission the applicant must apply to the Historic District Commission for an evaluation of the subject property for eligibility for historic designation.
- (c) After the NRI, and [N]notwithstanding the foregoing, if at any time during the review of a site plan, Project Plan or special exception application the Chief of Planning determines that a site, building or structure has potential historic significance, the application review process will be suspended and the Historic District Commission will evaluate the subject property for eligibility for historic designation under the provisions of Section 25.14.01.d.

\* \* \*

#### **25.07.06 – Site Plan Implementation Period**

\* \* \*

- b. *Extensions* – Except [of] as set forth in Section 25.07.15, the Planning Commission or the Chief of Planning may, for good cause shown, grant no more than two (2) extensions of not more than six (6) months each for any prior approval subject to the provisions of Section 25.05.08, "Extension of Implementation Period". The Planning Commission may require as a condition of approval of an extension that the applicant submit periodic progress reports to the Chief of Planning detailing efforts undertaken to implement the site plan approval.

\* \* \*

### **25.07.07. – Project Plan Review**

\* \* \*

18. *Project Plan Implementation Period– A Project Plan approval expires if:*

\* \* \*

- (b) Except [of] as set forth in Section 25.07.15, construction on all phases of the approved Project Plan has not commenced within the time period set forth in the Project Plan approval, except that the approval does not terminate with respect to those phases of the Project Plan for which construction has commenced.

### **25.07.13 – Certificate of Approval in Historic Districts**

\* \* \*

- g. *Incorporation of Maryland Law* – All other provisions and subsequent modifications of the Land Use Article of the Annotated Code of Maryland [Law, 66B, Chapter 8] are incorporated into this Article by reference.

Amend Article 8, “Transitional Provisions, Nonconformities, Nonconforming Alteration Approval”, as follows:

\* \* \*

### **25.08.06 – Development Standards Nonconformities**

\* \* \*

- d. *Nonconformity through Public [Taking] Acquisition*

- 1. An existing building, structure, or site improvement is not a development standards nonconformity if it is located on [an otherwise lawful] a lot and the lot was reduced in area by [a taking] acquisition under eminent domain, or by other government [acquisition] action in lieu of eminent domain that would otherwise render the building, structure, or site improvement nonconforming because a dimension or location of the building, structure, or site improvement is deficient due to the public acquisition. For the purpose of this section, the dedication of land for a public park or for the right-of-way for a public street proposed in the Plan is considered a public acquisition. The building, structure, or site improvement may be repaired, altered, or reconstructed, if it is an otherwise lawful use, only to the extent of original development existing on the date of the [governmental] public acquisition.

Amend Article 9, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities” as follows:

**25.09.01 – [General Requirements] Accessory Uses**

**a. Accessory uses [and structures] must:**

1. Be customarily associated with and clearly incidental and subordinate to a legally established principal use [or structure] in accordance with all requirements of this Chapter;
2. Except in conjunction with a publicly-owned or publicly-operated use, [B]be operated and/or maintained under or on behalf of the same ownership as the principal use [or structure];
3. Be operated on the same lot as the principal use [or structure], unless otherwise provided in this chapter; and
4. Not create a nuisance or hazard to surrounding properties or passing vehicles or pedestrians.
5. Not include any retail sales in [any] a residential [dwelling] building except as provided for a home-based business under the provisions of Section 25.09.07.

**b. If operated partially or entirely within the structure containing the principal use, the gross floor area within such structure utilized by accessory uses (except garages and off-street loading facilities) must not be greater than:**

- (a) In a dwelling unit, twenty percent of the gross floor area not to exceed 300 square feet, or
- (b) In a structure other than a dwelling unit, ten percent of the gross floor area of a structure containing any principal use.

**25.09.02 – Accessory [Uses] Structures**

*[General] Requirements* – [In addition to the general requirements for accessory uses in Section 25.09.01, above, a] Accessory [uses] structures must[:] be customarily associated with and clearly incidental and subordinate to a legally established principal [use or] structure. Such structures cannot be attached to the main building by any part of a common wall or common roof. Uses within accessory structures must comply with the applicable provisions of Section 25.09.01, above.

- [1. Not include residential occupancy in any zone; and

2. Not include retail sales in any residential dwelling.
3. If operated partially or entirely within the structure containing the permitted, conditional, or special exception use, the gross floor area within such structure utilized by accessory uses (except garages and off-street loading facilities) is not greater than:
  - (a) Twenty percent of the gross floor area, but not to exceed 300 square feet of the gross floor area, of a dwelling unit or
  - (b) Ten percent of the gross floor area of a structure containing any permitted, conditional, or special exception use other than a dwelling unit.]

\* \* \*

### **25.09.03 – Accessory Buildings and Structures**

#### *a. Residential Accessory Buildings and Structures*

\* \* \*

2. Residential accessory buildings are limited to one story and are subject to the following additional provisions:

\* \* \*

- f. *Accessory Buildings on Corner Lots* – Accessory buildings [may] must be placed in the rear yard of a corner lot. The rear yard of a corner lot must meet [the rear yard setback] the minimum rear yard setback from the lot line to the main building as set forth in the applicable zone.

\* \* \*

### **25.09.05 – Setback Encroachments**

The following setback encroachments apply within all zones, except as otherwise provided herein:

1. *Permanent Encroachments* – The following permanent structures and features are permitted to project into the required yard setbacks in the amount stated for each structure or feature:
  - (a) *Air Conditioners, [and] Heat Pumps and Emergency Generators*
    - i. Air conditioners and heat pumps may project no more than five (5) feet into minimum side and rear setbacks.
    - ii. Emergency generators shall comply with all noise regulations applicable in the City. The periodic test operation of the emergency generator must be



conducted only on weekdays between the hours of 7 a.m. and 7 p.m.  
Placement of generators are allowed as follows:

A. Emergency generators may only be located in a rear or side yard, but cannot encroach into a side yard setback and may only encroach five feet into a rear yard setback.

B. In the case of a corner lot, emergency generators must be located in the front yard facing a street and may encroach up to five feet into the front yard setback. The generator cannot be located in the front yard of the property's street address.

iii. In the case of properties located in an historic district zone, the location and screening of such equipment is subject to review and approval by the Chief of Planning unless visible from a public way. The Chief of Planning review will include any conditions set forth in the historic district designation by the Historic District Commission.

(b) *Renewable Energy Generation [Systems] Equipment* - Solar heating panels, solar collectors, or other alternative energy generator equipment may project not more than five (5) feet into the minimum side and rear setbacks.

\* \* \*

## 2. *Fences*

(a) *Fences – Residential Zones* – Fences are subject to the following limitations in residential zones:

\* \* \*

v. *Fences in Planned Development Zones* – In a Planned Development Zone approved prior to January 1, 1975, fences up to six (6) feet tall [may] will be [approved] allowed: [to]

i. To replace an existing fence; or[, where]

ii. If the location of the fence within such Planned Development is approved by the homeowner's association.

Amend Article 14, "Special Zones", as follows:

### **25.14.01 – Historic District Zones**

\* \* \*

d. *Designation of Properties*

1. *Initiation of Process* – The process of evaluating a property for possible historic designation due to its historic, archaeological, or architectural significance begins upon the occurrence of any of the following [:] items in subsection (a) below. If the nomination application is filed by a person other than the property owner, the person making the nomination must provide notice of the nomination by first class mail to the property owner at the time of application. A copy of the notice must also be provided to the Historic District Commission.

\* \* \*

4. *Mayor and Council Authorization* – Upon receipt of the Historic District Commission’s recommendation, the Mayor and Council may authorize the filing of a sectional map amendment (Section 25.06.01.b.2) to place the property in the Historic District Zone.

\* \* \*

#### **25.14.19 – PD-NMC (New Mark Commons)**

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#### **25.14.26 – PD-UR (Upper Rock)**

\* \* \*

- b. *Designated Equivalent Zones* - Designated equivalent zone: [~~:-~~] Mixed-Use Employment Zone (MXE).

Amend Article 16, “Parking and Loading”, as follows:

\* \* \*

#### **25.16.02 – General Requirements**

\* \* \*

- b. *Special Provisions for Certain Zones*

1. *R-400, R-200, R-150, R-90, R-75, R-60, and R-40 Zones* - In the R-400, R-200, R-150, R-90, R-75, R-60, and R-40 Zones, off-street parking of motor vehicles is limited to:

(a) Passenger vehicles;

(b) Not more than one (1) delivery-type commercial vehicle per dwelling unit not exceeding three-quarter (3/4) ton capacity or one (1) that has been issued a special permit pursuant to Section 23-27 of the City Code; and

- (c) One (1) trailer which cannot be used for dwelling purposes or any accessory use, provided such trailer is parked behind the front building line whenever possible.  
A semi-trailer for transport by a truck tractor under the Maryland Vehicle Law is not allowed except as a temporary use in accordance with Sec. 25.09.04.d.

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### 25.16.03 – Number of Spaces Required

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Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
<b>Commercial (con't.)</b>	Restaurant, full service, <u>including fast food restaurant in a multi-tenant building</u>	Per 50 SF of patron use area (excluding rest rooms)	1 and	Square feet of gross floor area	2 per 5,000 SF	2 per 12,000 SF	See Sec. 25.16.03.f Planning Commission option to review
		Per 80 SF of outdoor patron use area	1 and				
		Per 2 employees	1				
		Per 15 SF of bar patron area where bar patron area exceeds 10% of total patron use area	1				

	Restaurant, fast food	If located in a free-standing [or multi-tenant] building	50 and	Square feet of gross floor area	2 per 5,000 SF	2 per 12,000 SF	See Sec. 25.16.03.f Reservoir spaces cannot impede other traffic in the parking lot. Facilities serving only via drive-through windows must provide the same reservoir spaces as a standard fast food restaurant.
		Reservoir spaces for each pick-up window	10 or				
		Reservoir spaces for windows with separate order and pick-up windows	5 and				
		Per 2 employees	1				

\* \* \*

- f. **Maximum Parking Limits** – In order to limit excessive off-street parking and encourage parking reductions [I] in the MXTD and MXCD zones, the number of parking spaces to be provided is limited to no more than the standard shown in the tables above. Additional parking can only be provided if:

Amend Article 18, “Signs”, as follows:

**25.18.14 – Signs Permitted in Other Mixed-Use Zones – MXTD, MXCD, MXNC, MXE, MXB and MXT**

\* \* \*

- b. Signs permitted in the MXTD, MXCD, MXNC, MXB, and MXE Zones:
1. *Permanent Building Signs* - Permanent building signs are permitted in the MXTD, MXCD, MXNC, MXB, and MXE Zones in accordance with the following:

(a) *MXTD, [ and] MXCD and MXNC Zones:*

Amend Article 21, “Plats and Subdivision Regulations”, as follows:

**25.21.01 – Plats**

- a. There are two (2) types of plats:

1. Final record plats which are either:

(a) Subdivision plats (when there is an assemblage or division of land); or

- (b) Recordation of an existing single unit detached residential lot; and
- 2. Ownership plats.
- b. *Recordation required for development.*
  - 1. Every structure must be erected and located on a record lot.
  - 2. Except as provided in this chapter, there cannot be more than one (1) single unit detached residential dwelling on one (1) lot.

\* \* \*

### **25.21.13 – Ownership Plats**

- a. *Purpose* – an ownership plat may be approved for the purpose of designating land as separate ownership lots within a single record lot where the requirements of this section are met. Lots shown on the plat must be depicted with metes and bounds descriptions and resemble a Final Record Plat but the lots shown on the ownership plat do not constitute a resubdivision of the original record lot or lots.
- b. [*Findings*] Conditions for approval - Where more than one (1) building or building component exists, or is to be located, on a tract of land, the Planning Commission may approve an ownership plat [if the Commission finds all of the following] where the following conditions exist:
  - 1. The land is located in a zone other than the R-400, R-200, R-150, R-90, R-75, R-60, and R-40 Zones, except that an ownership plat is permitted in the previously mentioned zones if the property contains or is approved for a use other than single-unit detached residential;
  - 2. The ownership plat is reasonably necessary to accommodate the financing, phasing, or separate ownership of a building or group of buildings or building components on [the tract of land] a recorded lot, and/or;
  - 3. The subdivision into individual record lots for each building or building component is not feasible because:
    - (a) Setback, open space or lot size requirements or other development standards of the zone reasonably preclude such subdivision;
    - (b) Amenity features required in the zone or pursuant to an approved use permit or site plan for the tract are designed to serve the various buildings or building

components, or other design features of the project are integrated among the buildings or components;

- (c) Density calculations or bonus densities allowed in the zone and approved in a use permit or site plan are based on the area of the entire tract; or
- (d) The creation of ownership lines or financing lines is intended principally to accommodate the separate ownership or financing rather than its formal subdivision, [; and

4. The ownership plat:

- (a) Will not constitute a violation of any provision of this Chapter or other applicable law;
- (b) Will not violate or adversely affect the Plan;
- (c) Will not be unsuitable for the type of development, the use contemplated, and available public utilities and services; or
- (d) Will not adversely affect the health or safety of persons residing or working in the neighborhood.]

2. SECTION 2. That this ordinance shall apply immediately upon the date of adoption.

NOTE: [Brackets] indicate material deleted  
Underlining indicates material added  
Asterisks \* \* \* indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of April 7, 2014.

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Douglass A. Barber, City Clerk